



CIVIL PENALTIES AND FINES

Part I: How to appeal a civil penalty

By ILRC Staff

I. Overview

For many years, the government has had the statutory power to impose civil penalties in immigration cases in addition to assessing fees for various applications. On June 27, 2025, the Trump administration instituted an Interim Final Rule (IFR) using this authority and implemented civil penalties in three situations:

- ✎ Where an individual is apprehended between the ports of entry while entering or attempting to enter the U.S. illegally. The person *has to be apprehended when entering or attempting to enter the U.S.* The maximum fine is \$500/entry or attempt.
- ✎ Where an individual *voluntarily* fails to leave the United States after being granted voluntary departure. "Voluntarily" means that the individual was physically capable of leaving and did not. If an individual were hospitalized or in jail and failed to leave, it would not constitute a failure to depart voluntarily. This exception only applies to the individual and not to any family members. The minimum fine is \$1192, and the maximum fine is \$9970. The presumptive fine is \$3000.
- ✎ Where an individual *willfully* fails to depart or conspires to fail to depart after being ordered deported. Arguably, if the person was deported in absentia and never received notice, there was no willful failure to depart. Similarly, if the person was ill or was incarcerated, there is no willful failure to depart. A person who was granted withholding of removal or protection under the Convention Against Torture (CAT) should not be subject to a civil fine because there was no willful failure to depart. The maximum fine is \$998/day.

After June 26, 2025, any "immigration officer" as defined in 8 CFR § 1.2 may issue a Notice of Intent to Fine (NIF) where there is a "reason to believe" that the noncitizen is subject to a fine. An "immigration officer" includes U.S. Citizenship and Immigration (USCIS) officers, Enforcement and Removal Operations (ERO) officers, asylum officers, Immigration Customs Enforcement (ICE) officers, and aircraft pilots.

The IFR notes that once imposed, these fines may be rescinded if the noncitizen leaves the United States using the CBP Home App. The government uses the CBP Home App to facilitate the departure of noncitizens from the United States. However, problems with the app have

been widely reported, very few people are eligible to use the CBP Home App, and DHS may reinstitute the fines if the person seeks to return to the United States.¹

There are several potential defenses that advocates can raise to argue for the rescission of these fines. These defenses include arguments under the statute of limitations; statutory defenses under the Immigration and Nationality Act (INA) and the Administrative Procedures Act (APA); and Constitutional defenses under the Fifth, Seventh, and Eighth Amendments. (See **Part II** of this Advisory.)

For some historical background, even though the government has had the authority to issue civil penalties since the enactment of IIRIRA, these penalties have only ever been issued during the first Trump administration. From 2017 through 2021, the Trump administration assessed fines in 26 cases.² On January 20, 2021, the Biden administration rescinded the fines.³ In ordering the rescission of civil penalties, DHS Secretary Alejandro Mayorkas remarked, “[w]e can enforce our immigration laws without resorting to ineffective and unnecessary punitive measures.”⁴

On March 17, 2025, the second Trump administration started assessing fines again. Between March 15, 2025 and June 13, 2025 alone, ICE issued nearly 10,000 fines for a total of almost \$3 billion.⁵ On June 27, 2025, DHS issued an Interim Final Rule (IFR) revising the rules to impose civil penalties in immigration proceedings.⁶ This rule is codified at 8 CFR § 281.⁷

On September 8, 2025, DHS issued a notice in the Federal Register that in addition to any fines DHS would be implementing two new fees of \$5,000 each for: people ordered removed in absentia (unless the removal case is reopened) and people who entered the United States

¹ For more information on the CBP Home App, see National Immigration Law Center, *Know Your Rights: CBP Home*, available at <https://www.nilc.org/resources/know-your-rights-cbp-home/>; and American Immigration Council, *CBP One: An Overview*, (March 24, 2025), available at <https://www.americanimmigrationcouncil.org/fact-sheet/cbp-one-overview/>.

² During the first Trump administration, civil penalties were issued in the follow circumstances: (1) failure to voluntarily leave the United States after an order of voluntary departure; (2) engaging in prohibited activities involving document fraud in violation of INA § 274C; and (3) willfully failing to depart in violation of a removal order. ICE Directive 10088.1: *Fines and Penalties for Civil Violations of Immigration Law* (June 19, 2018), https://www.ice.gov/doclib/foia/policy/10088.1_FinesPenaltiesCivilViolImmLaw.pdf.

³ Exec. Order No. 13993, 86 Fed. Reg. 7051 (Jan. 25, 2021), <https://www.federalregister.gov/documents/2021/01/25/2021-01768/revision-of-civil-immigration-enforcement-policies-and-priorities>.

⁴ *DHS Announces Rescission of Civil Penalties for Failure-to-Depart*, Homeland Security (Apr. 23, 2021), <https://www.dhs.gov/news/2021/04/23/dhs-announces-rescission-civil-penalties-failure-depart>.

⁵ Civil Penalties, 90 Fed. Reg. at 27442; DHS Announces It will Forgive Failure to Depart Fines for Illegal Aliens Who Self-Deport Through the CBP Home App, Dep’t of Homeland Sec. (June 9, 2025), <https://www.dhs.gov/news/2025/06/09/dhs-announces-it-will-forgive-failure-depart-fines-illegal-alien-who-self-deport>.

⁶ Civil Penalties.

⁷ 8 CFR § 281 is found at <https://www.ecfr.gov/current/title-8/chapter-I/subchapter-B/part-281>.

without being inspected or admitted.⁸ For an in-depth analysis of these fees, please see ILRC, *HR1 Fees at USCIS and EOIR* (Sept. 2025).⁹

On November 20, 2025, several civil rights organizations filed a Class Action Complaint for Vacatur and Declaratory and Injunctive Relief against DHS. *Maria L. et al v. Noem et al*, No. 1:250CV-13471 (D. Mass).¹⁰ Public Justice has set up a website regarding civil fines at www.noimmigrationfines.org.

This Practice Advisory is divided into two parts. **Part I** discusses the procedures for instituting a fine and recommendations for contesting and appealing a fine. **Part II** discusses statutory and Constitutional arguments that practitioners can make challenging these fines.

II. What the Statute and the IFR Says

As explained above, DHS can implement these fines (in addition to any other criminal or civil penalty) in the following three situations.

- **INA § 275(b)**. Where the person is apprehended while entering or attempting to enter the United States outside a port of entry. The civil penalty can range from a minimum of \$100 up to \$500 for each entry or attempted entry.¹¹ This penalty is *not* for people who entered the United States without inspection. It is for people who were *apprehended* between a port of entry *while* entering or attempting to enter the United States.
- **INA § 274D(a)(1)**. Where a person has a final removal order and they can be fined up to \$998 for each day they remain in the United States after being ordered removed if they:¹²
 - Have “willfully” failed or refused to depart the U.S. pursuant to that order; failed to get travel documents; or failed to appear for a removal order. *Or*,
 - They conspired or took action designed to “prevent or hamper” departure.

NOTE: Civil penalties under INA § 274D(a)(1) should only apply where the government can establish that the person *willfully* failed to leave the United States or conspired to remain in the United States. If a person was ordered removed in absentia and there is no evidence that they received notice of the hearing, they may be able to argue that their failure to depart was not willful and that the civil penalty should be rescinded. Similarly, where a person is unable to obtain travel documents to return to their home country, their failure to leave the United States is not willful. Where the person is granted relief in the form of withholding of removal or

⁸ Certain DHS Immigration Enforcement-Related Fees Required by HR-1 Reconciliation Bill, 90 Fed. Reg. 43223 (Sept. 8, 2025), <https://www.federalregister.gov/documents/2025/09/08/2025-17221/certain-dhs-immigration-enforcement-related-fees-required-by-hr-1-reconciliation-bill>.

⁹ <https://www.ilrc.org/sites/default/files/2025-09/HR1-EOIR-USCIS-Fees.pdf>.

¹⁰ <https://storage.courtlistener.com/recap/gov.uscourts.mad.292041/gov.uscourts.mad.292041.1.0.pdf>.

¹¹ 8 CFR §§ 281.1(g); 280.53(b)(15).

¹² 8 CFR §§ 281.1(g); 280.53(b)(14).

protection under the Convention Against Torture (CAT) their failure to leave the United States should not be considered “willful.”

- **INA § 240B(d).** A civil fine can be assessed where a person fails to *voluntarily* depart the United States after receiving a Voluntary Departure Order under INA § 240B(d). That fine can range from \$1192 to \$9970.¹³ There is a rebuttable presumption that the fine amount will be set at \$3,000 unless the immigration judge or the BIA specifies a different amount. The immigration judge or the BIA *shall* advise the person of the amount of the civil penalty at the time of granting voluntary departure.¹⁴

Where DHS issued the NIF before June 27, 2025, the civil penalty process is subject to the more robust protections of 8 CFR § 280.¹⁵ According to the IFR, these protections should apply to approximately 10,000 people who were issued fines prior to the IFR’s publication.¹⁶ Below is a chart with the pre-June 27, 2025, process and the process for all NIFs issued on or after June 27, 2025.

NOTE: There are no specific exemptions from these fines for juveniles. However, there are strong arguments that a juvenile cannot form the intent to willfully or voluntarily fail to leave the United States. Similarly, if a juvenile is apprehended between the ports of entry, there is a strong argument that they could not form the intent to enter the United States between the ports of entry. Moreover, a juvenile often does not have the option of choosing to leave the United States or of choosing to enter the United States, as they are often being taken care of by their parents or family members. Advocates will have to argue that these fines should not apply to children. (Please see **Part II** of this advisory for more arguments related to juveniles).

<p>Pre June 27, 2025</p> <p>This Process Applies to All Individuals Who Received an NIF before June 27, 2025 and to All Carriers, Regardless of the Date of the NIF</p>	<p>On or after June 27, 2025</p> <p>This Process Applies to Those Individuals Who Received an NIF Final Decision and Order</p>
<p>Who can issue a civil penalty?</p>	
<p>The District Director, the Associate Commissioner for Examinations, or the Director of the National Fines Office can issue a fine under the following circumstances: (1) where they have <i>reason to believe</i> that the individual was apprehended while entering or attempting to enter the United States outside of a port of entry;</p>	<p>Any “immigration officer” defined as senior or supervisory officers, including USCIS officers, asylum officers, deportation officers, ERO officers, border patrol agents, ICE officers, and even aircraft pilots¹⁸ can issue a fine under the following circumstances: (1) where they have <i>reason to believe</i> that the individual was apprehended while entering or attempting to enter the United States outside of a port of entry;</p>

¹³ 8 CFR § 281.1(g); 280.53(b)(3).

¹⁴ 8 CFR § 1240.26(l).

¹⁵ 8 CFR § 281.1(h).

¹⁶ Civil Penalties, 90 Fed. Reg at 27442.

¹⁸ See 8 CFR §§ 1.2 and 2.1 for a list of DHS officers who may issue a fine.

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(2) where they have <i>reason to believe</i> the individual willfully failed to leave the United States after being ordered removed; or, (3) where they have <i>reason to believe</i> the individual voluntarily failed to leave the United States after being granted an order of voluntary departure. ¹⁷	(2) where they have <i>reason to believe</i> the individual willfully failed to leave the United States after being ordered removed; or, (3) where they have <i>reason to believe</i> the individual voluntarily failed to leave the United States after being granted an order of voluntary departure. ¹⁹
How is the NIF Served?	
A copy of the Notice of Intent to Fine (NIF) (form I-79) must be served by certified mail or through personal service. The officer who serves the person had to sign a proof of service indicating the date and place of service.	A copy of the Notice of Intent to Fine (NIF) can be served either through personal service or through “routine service” (i.e. regular mail), using the person’s last known address or using the last known address of their attorney. ²⁰
What information is included in the NIF?	
The statutory basis for the civil penalties <i>and</i> information on how to contest the NIF.	<ul style="list-style-type: none"> • The statutory basis for the civil penalties; • The amount and type of penalty being imposed; • Brief statement of the reasons for the decision; • Information on how to contest the NIF, including: <ul style="list-style-type: none"> ○ Right to appeal; ○ Any written defense or documentary evidence must be submitted with the notice of appeal; ○ Individual may be represented at no expense to the U.S. government; and, ○ If individual does not appeal the immigration officer’s decision shall become final.²¹ ○ There is no right or process for an in-person hearing.²²

¹⁷ 8 CFR § 280.1.

¹⁹ 8 CFR § 281.1(b).

²⁰ 8 CFR §§ 281.1(d); 103.8(a)(1)(i) (“[r]outine service consists of mailing the notice by ordinary mail addressed to the affected party and his or her attorney or representative of record at his or her last known address”).

²¹ 8 CFR § 281.1(c)(1) and (2).

²² 8 CFR § 281.1.

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<p>What Information Must Be Included in the Response to the NIF?</p>	
<p>A written defense must be filed in duplicate within 30 days following service of the NIF. But DHS may extend the period for an additional 30 days upon a finding of good cause. The answer must include the following:</p> <ul style="list-style-type: none"> • It must be filed under oath • It must outline the reasons why a fine should not be imposed, or if it is imposed, why it should be mitigated or remitted if allowed by the INA; and • Whether the applicant wants a personal interview.²³ <p>The individual or carrier may submit a brief.</p>	<p>A written notice of appeal must be postmarked within 15 business days of the date of service of the decision.²⁴</p> <p>The answer must include the following:</p> <ul style="list-style-type: none"> • Written defense or documentary evidence of why a civil penalty should not be imposed;²⁵ • The written notice of appeal has to be submitted in accordance with the filing instructions provided in the decision.²⁶
<p>What is the Time Frame for Contesting the NIF?</p>	
<p>Once the NIF is served, the individual or carrier must an appeal in duplicate, 30 days following the notice of service.²⁷ The District Director, Associate Commissioner for Examinations, or the Director of the National Fines Office may extend this period for 30 days about good cause shown.²⁸</p>	<p>Once the NIF is served, the individual must submit an appeal, in triplicate, that is <i>postmarked</i> within 15 business days from the date of service of the immigration officer’s decision.²⁹</p> <p>The post office has changed the process for postmarking mail. To ensure that the mail is postmarked on the date the post office receives it, the customer must request a “manual” postmark.³⁰</p>
<p>How to File an Opposition to the NIF?</p>	
<p>File two (2) copies of your opposition with the district director, or the Associate Commissioner for Examinations, or the Director for the</p>	<ul style="list-style-type: none"> • File three (3) copies of your opposition by certified mail or express mail. Be sure to keep your tracking number to prove that DHS received the appeal.

²³ 8 CFR § 280.12.

²⁴ 8 CFR § 281.1(c)(2)(i).

²⁵ 8 CFR § 281.1(c)(2)(iii).

²⁶ 8 CFR § 281.1(c)(2)(ii).

²⁷ 8 CFR § 280.12.

²⁸ 8 CFR § 280.12.

²⁹ 8 CFR § 281.1(c)(2)(i). Please note that the regulations do not state that the response must be filed in triplicate. However, the NIFs that have been issued require that any response be filed in triplicate.

³⁰ Domestic Mail Manual (DMM) § 608.11, <https://pe.usps.com/text/dmm300/608.htm#11.0>. Best practice is to send the appeal with tracking and proof that it was received by the government either through the post office or through a third party such as Fed Ex, DHL, or UPS.

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<p>National Fines Office.³¹ (Use the address on the NIF).</p> <p>Legal Representatives should file a Notice of Appearance form G-28 (if prior notice of appearance has not been filed).</p>	<ul style="list-style-type: none"> • Legal Representative must file a Notice of Appearance, Form G-28 (if prior notice of appearance has not been filed). • Mail the opposition to the address written on the NIF. The current address on NIFs that have been issued is: U.S. Immigration and Customs Enforcement Attn: Civil Fines 500 12th St. SW, Stop 5202, Room 11078 Washington, DC 20536-5202³²
<p>What is DHS’s Process once they get the response?</p>	
<ul style="list-style-type: none"> • Once the person files the opposition to the fine, the case is assigned to an immigration officer who shall prepare a report summarizing the evidence and including their recommendations.³³ • The district director, Associate Commissioner for Examination, or the Director for the National Fines Office shall approve or disapprove of the recommendation.³⁴ 	<ul style="list-style-type: none"> • A supervisory officer (who did not issue the NIF) reviews the entire record <i>de novo</i> within ten days after the notice of appeal is filed. That means that the supervisory officer reviews the entire record and does not defer to the findings of the officer who issued the NIF. • The supervisory officer can request additional information, and the person has 15 days from the receipt of the request for additional information to respond. It is not clear from the regulations or the IFR what “15 days from the receipt of the request” means. • The supervisory officer must issue a final written decision no later than 45 days after the notice of appeal was file and must serve the answer on the person either in person or by regular mail.³⁵ • The person may not appeal this decision to the BIA and may not file a motion to reopen or reconsider. But DHS may sua sponte reopen the case to reduce or rescind the fine in its entirety.³⁶

³¹ 8 CFR § 280.12.

³² This information comes from NIFs issued on or after June 27, 2025. There is no official information about how to appeal an NIF on any DHS website.

³³ 8 CFR § 280.13(b).

³⁴ 8 CFR § 280.13(b).

³⁵ 8 CFR § 281.1(e).

³⁶ 8 CFR § 281.1(f)(1).

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Can the Individual or Carrier File a Motion for Mitigation or Remission of the Fine with DHS?	
<ul style="list-style-type: none"> • Yes. The individual may file an application for remission or mitigation.³⁷ • File 2 copies of the application for recission or remission within 30 days after receipt of the NIF. • The application must be filed under oath and supported by documentary evidence for the basis of recission or remission.³⁸ 	<ul style="list-style-type: none"> • Yes. The individual may file an application for remission or mitigation. • File three copies of your opposition by certified mail or express mail. Be sure to keep your tracking number to prove that DHS received the appeal. • Legal Representative must file a Notice of Appearance, Form G-28 (if not prior notice of appearance has been filed). • Mail the opposition to the address written on the NIF. The address should be: U.S. Immigration and Customs Enforcement Attn: Civil Fines 500 12th St. SW, Stop 5202, Room 11078 Washington, DC 20536-5202³⁹
How to File an Administrative Appeal?	
<ul style="list-style-type: none"> • A person or a carrier may file an appeal of a fine to the BIA.⁴⁰ • Person must file a Notice of Appeal Form EOIR-29.⁴¹ • Fee is \$1010.00 and must be paid to the appropriate DHS office.⁴² • Legal Representative must file a Notice of Appearance, Form EOIR-27 directly with DHS together with the Notice of Appeal.⁴³ 	There is no administrative appeal to the BIA. Any appeal only goes to a supervisory officer within DHS.

³⁷ 8 CFR §§ 280.5 and 280.12

³⁸ 8 CFR § 280.51.

³⁹ This information comes from NIFs issued on or after June 27, 2025. There is no official information about how to appeal an NIF on any DHS website.

⁴⁰ 8 CFR § 1280.1(b); BIA Practice Manual § 10.2.

⁴¹ 8 CFR § 1003.3(a)(2); BIA Practice Manual § 10.3.

⁴² EOIR, *Types of Appeals, Motions, and Required Fees*, <https://www.justice.gov/eoir/types-appeals-motions-and-required-fees>.

⁴³ 8 CFR § 1292.4(a).

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<ul style="list-style-type: none"> • Any brief is filed with DHS at the same office as the Notice of Appeal in accordance with the briefing schedule set by DHS.⁴⁴ • Any request for an extension of time to file the brief must be filed with DHS.⁴⁵ <p>If the person or carrier wants to submit new evidence, they should explain the purpose of the new evidence and explain that it was previously unavailable. If new evidence is submitted the submission may be considered a motion to remand.⁴⁶ The BIA will not consider evidence submitted where it had been expressly requested by DHS and the person or carrier had a reasonable opportunity to submit the evidence before the matter was decided by DHS.⁴⁷</p>	
<p>Who Reviews the Appeal and What is the Process?</p>	
<p>The Board of Immigration Appeals⁴⁸</p> <ul style="list-style-type: none"> • The BIA may request or direct a personal interview of the person or carrier. • The BIA may remand the case when DHS enters a decision without granting a personal interview.⁴⁹ • The BIA may remand the case where the DHS decision does not adequately explain the reasons for the fine.⁵⁰ <p>If DHS fails to grant an interview, the BIA may invalidate the fine.⁵¹</p>	<p>A supervisory immigration officer who did not issue the NIF.</p> <ul style="list-style-type: none"> • A supervisory officer reviews the entire record <i>de novo</i> within ten days after the notice of appeal is filed. That means that the supervisory officer reviews the entire record and does not defer to the findings of the officer who issued the NIF. • The supervisory officer can request additional information, and the person has 15 days from the receipt of the request for additional information to respond. It is not clear from the regulations or the IFR what “15 days from the receipt of the request” means. • The supervisory officer must issue a final written decision no later than 45 days after the notice of

⁴⁴ 8 CFR § 1003.3(c)(2).

⁴⁵ 8 CFR § 1003.3(c)(2).

⁴⁶ BIA Practice Manual § 10.3(7).

⁴⁷ BIA Practice Manual § 10.3(7).

⁴⁸ 8 CFR § 1280.1(b).

⁴⁹ 8 CFR § 1280.1; BIA Practice Manual § 10.4(a).

⁵⁰ *Matter of Air India “Flight No. 101”*, 21 I&N Dec. 890 (BIA 1997); BIA Practice Manual § 10.4(a).

⁵¹ *Matter of Beechcraft B-95, #N21JC*, 17 I&N Dec. 147 (BIA 1979); BIA Practice Manual § 10.4(b).

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	appeal was file and must serve the answer on the person either in person or by regular mail. ⁵² <ul style="list-style-type: none"> The person may not appeal this decision to the BIA and may not file a motion to reopen or reconsider. But DHS may <i>sua sponte</i> reopen the case to reduce or rescind the fine in its entirety.⁵³
What is in the Appellate Record?	
<ul style="list-style-type: none"> NIF Any written defense or correspondence Any documentary evidence submitted to DHS The record of personal interviews Any briefs on appeal The record of any prior DHS actions, and The record of any prior BIA action.⁵⁴ 	<ul style="list-style-type: none"> NIF The immigration officer's decision Evidence in DHS's administrative files Any written filings, briefs, documentary evidence, or other relevant material that was <i>timely</i> submitted.⁵⁵ If the person requests it, the supervisory officer <i>shall</i> give them copies of <i>pertinent</i> documentations and <i>relevant</i> records unless the records are law enforcement sensitive or the disclosure is prohibited by law. It is not clear what the terms "pertinent" or "relevant" mean.
Are There Any Proceedings Beyond the Administrative Appeal Process?	
<ul style="list-style-type: none"> Anyone can file a complaint in federal court, where the court will review the penalty using de novo review. In most jurisdictions the fee to file a civil suit is about \$405.00 but the fee depends on your jurisdiction.⁵⁶ <p>Anyone can defend against the issuance of a fine in District Court when the lawsuit is filed to request the judgment.</p>	<ul style="list-style-type: none"> Anyone can file a complaint in federal court, where the court will review the penalty using de novo review. In most jurisdictions the fee to file a civil suit is about \$405.00 but it depends on your jurisdiction. <i>And</i> DHS can certify for review any decision to issue civil penalties and can review the case de novo.⁵⁷ <p>Anyone can defend against the issuance of a fine in District Court when the lawsuit is filed to request the judgment.</p>

⁵² 8 CFR § 281.1(e).

⁵³ 8 CFR § 281.1(f)(1).

⁵⁴ BIA Practice Manual § 10.3(c)(1).

⁵⁵ 8 CFR § 281.1(e)(4).

⁵⁶ E.g. Here is a link to the Court Fee Schedule for the Northern District of California, <https://cand.uscourts.gov/about/clerks-office/court-fees/>.

⁵⁷ 8 CFR § 281.1(e)(4).

III. Will DHS Ever Rescind These Fines?

The IFR states that if a person voluntarily leaves the United States through the CBP Home mobile app they will rescind the fine once the person has confirmed through the app that they have left the U.S.⁵⁸ The IFR states that DHS is “currently rescinding fines imposed against [noncitizens] who depart the United States voluntarily using the CBP Home App.”⁵⁹

PRACTICE TIP: The CBP Home App is currently only for (1) people with no criminal background who had an encounter with CBP either at the port of entry or between the port of entry; (2) parolees whose status has expired or will soon expire; (3) people whose TPS has terminated. If a person falls under one of these three categories and are in removal proceedings, they may ask the Immigration Judge to terminate proceedings. According to DHS, the CBP Home App may be expanded to include other groups of people in the future.⁶⁰

It seems that a person who is removed from the United States and either does not or cannot use the CBP Home App will still be responsible for these civil penalties. If a person seeks to return to the United States on a visa after being issued a fine and leaving, DHS may determine that a civil penalty must be paid but may reduce the amount of the fine.⁶¹ DHS is claiming this authority to rescind or modify the fines through 8 CFR § 281.1(f).

IV. How Will DHS Collect These Fines and What Property Can They Collect?

DHS will coordinate with the Department of the Treasury to collect these fines. They plan to use call centers and skip tracing to locate the person and collect the fines.⁶² Presidential Proclamation 10935 provides that those who are facing civil penalties will be subject to “the garnishment of wages; and the confiscation of savings and personal property, including homes and vehicles.”⁶³

HYPOTHESIS: Priti has been living in the United States without status for the past 30 years after overstaying her tourist visa. Over the past thirty years, she has built a business that employs 5 workers, and she has bought a house. Priti has never been arrested or convicted on any charge anywhere in the world. On January 9, 2023, Priti was ordered removed in absentia. She was unaware of the removal order. On August 13, 2025, Priti was issued an NIF. She is being fined over \$944,000. Should the civil penalty stand, under the Presidential Proclamation, the government can seize her home and her business to satisfy the fine. Please see **Part II** of this Advisory for statutory and Constitutional arguments that the civil penalty is invalid under these circumstances.

⁵⁸ Civil Penalties, 90 Fed. Reg. at 27442.

⁵⁹ Civil Penalties, 90 Fed. Reg. at 27451.

⁶⁰ <https://www.dhs.gov/cbphome>.

⁶¹ Civil Penalties, 90 Fed. Reg. at 274451.

⁶² Civil Penalties, 90 Fed. Reg. at 27442.

⁶³ Presidential Proclamation 10935: *Establishing Project Homecoming*, 90 Fed. Reg. 20357 (May 9, 2025), <https://www.whitehouse.gov/presidential-actions/2025/05/establishing-project-homecoming>.

V. Conclusion

The ability of DHS to issue civil penalties is limited to three situations: first, where a person is apprehended when entering or attempting to enter the United States between a port of entry.⁶⁴ Second, where a person voluntarily fails to depart the United States after getting an order of voluntary departure.⁶⁵ Third, where the person willfully fails to depart the United States after getting a removal order.⁶⁶ These civil penalties are in addition to any criminal penalties or immigration penalties that the statute can impose.

Part II of this Advisory outlines the legal arguments that advocates can make to protect their clients from these fees.

⁶⁴ INA § 275(b).

⁶⁵ INA § 240B(d).

⁶⁶ INA § 274D.



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About the Immigrant Legal Resource Center

The Immigrant Legal Resource Center (ILRC) works with immigrants, community organizations, legal professionals, law enforcement, and policy makers to build a democratic society that values diversity and the rights of all people. Through community education programs, legal training and technical assistance, and policy development and advocacy, the ILRC's mission is to protect and defend the fundamental rights of immigrant families and communities.

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